

AUDIT AND GOVERNANCE COMMITTEE

Tuesday, 21 July 2020

**Present: Councillor Paul Barrington-King (Chairman)
Councillors Reilly (Vice-Chairman), Backhouse, Bland, Everitt, Ms Palmer, Rands and Warne.**

**Parish/Town Councillors: Mr Mackonochie and Mr Edwards
Independent Members: Mr Quigley and Mr Turner**

Officers in Attendance: Lee Colyer (Director of Finance, Policy and Development (Section 151 Officer)), Rich Clarke (Head of Audit Partnership), Jane Fineman (Head of Finance and Procurement), Patricia Narebor (Head of Legal Partnership), Keith Trowell (Team Leader (Corporate Governance)), Jen Warrillow (Internal Audit Manager) and Emer Moran (Democratic Services Officer)

Other Members in Attendance: Councillors Bailey, Dawlings, Hayward, Pope and Pound

CHAIRMAN'S INTRODUCTION

AG1/20 The Chairman opened the meeting, introduced Committee members and officers in attendance, and outlined procedural matters of the meeting.

APOLOGIES FOR ABSENCE

AG2/20 There were no apologies for absence.

DECLARATIONS OF INTEREST

AG3/20 No declarations of interest were received.

NOTIFICATION OF VISITING MEMBERS WISHING TO SPEAK (IN ACCORDANCE WITH COUNCIL PROCEDURE RULE 18):

AG4/20 Councillors Dawlings and Hayward registered to speak on agenda item AG52/19
Cllrs Bailey, Pope and Pound have registered to speak on agenda item AG53/19
And Cllr Pope has also registered to speak on agenda item AG54/19

MINUTES OF THE MEETING OF THE AUDIT AND GOVERNANCE COMMITTEE DATED 26 NOVEMBER 2020

AG5/20 The minutes of the meeting of the Audit and Governance Committee dated 26 November 2019 were submitted.

Members formally approved the Internal and External Plans which had previously been agreed by email on 31 March 2020 following the cancellation of the meeting.

RESOLVED – That the minutes of the Audit and Governance Committee dated 26 November 2019 be approved as a correct record;

And that the Internal and External Plans be approved.

ANNUAL INTERNAL AUDIT REPORT AND OPINION

AG6/20

Mr Clarke, Head of Audit Partnership presented his report which includes the his annual opinion on the overall adequacy and effectiveness of the organisation's framework of governance, risk management and control.

Members of the Committee took account of the report and raised a number of questions and issues within their discussions. These included:

- At the time of issuing the opinion Mr Clarke was aware that Tunbridge Wells Council intended to revise its Strategic Risk Register because of the pandemic and had only seen drafts of these changes, details of which will be taken into account when producing the next plan in September.
- Clarification was given on the Critical recommendation and Mr Clarke explained that it was typically only at that level Audit would automatically draw details to the Committee's attention, this was not something that has had to happen and Tunbridge Wells to date.
- The ratings in the annex 1 relate to individual engagements. So, an individual engagement, might occasionally draw priority 2 recommendations but still attain an overall "sound" rating. The specifics did not track to a similar rating given at an all Council level but, as an overall expression of satisfaction (or concern), the ratings are comparable.
- Mr Clarke advised that a couple of correspondents who spoke to the Audit Assessor, when asked about ways the service could improve, expressed a wish to see more use made of them as a 'partnership' by seeing more comparator information with other authorities. As well as the direct comparisons between the four, the assessor also pointed them towards some available general statistical information we could use for similar context and they will be looking at how best to incorporate this sort of information in the audit engagements through 2020/21.
- When asked about the Budget setting in paragraph 42 and 51 it was advised that the budget setting audit referred to in the table was looking at the budget setting process that operates wholly across Tunbridge Wells Council and not just one individual project.
- Mr Clarke assured members of the independence, objectivity and standards conformance of the audit partnership.

RESOLVED:

1. That the Head of Audit Partnership's opinion, be noted; and
2. That the work underlying the opinion and the Head of Audit Partnership's assurance of its completion with sufficient independence and conformance with Public Sector Internal Audit Standards, be noted; and
3. That the conclusion of CIPFA's External Quality Assessment of Mid Kent Audit that the Audit Partnership Fully Conforms with applicable Standards, be noted.

STRATEGIC RISK REVIEW JUNE 2020

AG7/20

Mr Lee Colyer, Director of Finance, Policy and Development introduced the

report and explained to Members the following points:

- On the 23 March 2020 following the national emergency due to the Covid-19 pandemic Mr Colyer notified the Audit & Governance Chairman that the Council had put its Business Continuity Plan into full operation. The Strategic Risk 6: Service Interruption had increased from Red to Black, with a likelihood of Almost Certain and an Impact of Major.
- The Covid-19 pandemic was unprecedented and continued to have a profound impact on the Council and the borough.
- This issue is of strategic importance and a new strategic risk was created namely; Risk 11: Pandemic.

Mr William Benson, Chief Executive updated Members briefly on Risk Scenario 5: National policy changes in short term that impact negatively on Tunbridge Wells Borough Council and Risk Scenario 7: Capacity fails to keep pace with ambition and outlined the impact the COVID-19 pandemic has had on these.

Mr Benson then gave a detailed update on Risk Scenario 11: Pandemic; which looks at the longer-term impact of a pandemic on the Borough and the local community/economy.

- Members considered the report and points were raised which included:
- A detailed explanation of the process leading up to a section 114 Notice being issued was provided.
- An update regarding Royal Victoria Place and the plans that the owners British Land had in place was given including projects such as the Ely Court outside eatery and internal refurbishment to the inside of the building which have been successfully completed, further plans for redevelopment and possible extension are now on hold due to COVID-19.
- Details of how the pandemic has affected the Waste Contract and the plans put in place to rectify the issues.
- A progress update on The Amelia Scott project was given.
- The Council's approach to any future recruitment was explained to ensure capacity for a second wave of the pandemic should it occur.
- Mr Benson confirmed that he would speak to Mr Paul Taylor regarding questions raised about Risk Scenario 9: The Amelia Scott and Risk Scenario 10: Climate Change.
- Members offered their thanks to Mr Benson and his Officers for the work carried out throughout the pandemic and also to the Town and Parish Councils for their efforts.

RESOLVED:

1. That the risk management report and arrangements for managing strategic risk, be noted.

DRAFT FINANCIAL REPORT AND AUDIT FINDINGS 2019/20

AG8/20

Councillor Dawlings registered to speak and made the following points:

- Thanks was given to the finance staff, Mid Kent legal services and

Grant Thornton who prepared and audited the Council's accounts in the time frame set by Government.

- A description on how the audit process had to change due to the COVID-19 pandemic and how it had affected the Council and residents of the borough financially.

Councillor Hayward registered to speak and made the following points:

- That in his opinion the auditors could not have had sight of the Avison Young monthly reports in preparation for the Calverley Square audit.
- That in his opinion Members had not been given reports regarding a number of issues that the Calverley Square project experienced such as increase of costs.

Jane Fineman, Head of Finance & Procurement presented the draft Annual Financial Report (AFR) for 2019/20 and Appendix A which was the conclusion of the external audit process for the 2019/20 accounts.

Members of the Committee took account of the report and raised a number of questions and issues within their discussions. These included:

- The accounts for Tunbridge Wells Property Holdings Ltd were published at Companies House in the same way other Ltd. Companies would be and the information shown was in line with what the Code of Practise said to include.
- The Government relief grants to small businesses had mitigated the Council's risk of bad debt related to business rates.
- The Council's reserves and how they could be used to ease some of the pressure caused by loss of funds in the first quarter of the year caused by the pandemic.
- The potential loss of rateable value from reviews was discussed.
- An explanation was provided about what reports were shown to auditors and it was advised that the auditors had unfettered access to all documents, information and Officers that they require in order to form their opinion.

Mr Ade Oyerinde, Senior Manager Grant Thornton presented Appendix B: The Audit Findings for Tunbridge Wells Borough Council.

Members of the Committee took account of this report and raised a number of questions and issues within their discussions. These included:

- Councillor Barrington-King requested that it be noted that he was a Member of the Kent County Council Superannuation Committee after a section of the report referred to pensions.

Ms Sarah Ironmonger, Director Grant Thornton presented Appendix C: The Value for Money Review – Calverley Square Governance. Ms Ironmonger explained that the review had been undertaken by a specialist with no previous involvement with the Council who undertakes value for money and governance reviews.

Members of the Committee took account of this report and welcomed the recommendations and raised a number of questions and issues within their discussions. These included:

- In support of a concluding quote where it was stated that Grant Thornton (GT) were satisfied that at each stage members had

access to sufficient supporting papers and analysis to make informed decisions, it was advised that GT reviewed a number of papers that were available to Members at the time and in their view those papers enabled Members to make informed decisions.

- In response to concerns raised by Councillor Reilly that in his opinion Members were not kept fully updated on developing cost concerns in a timely manner, it was advised that the point at which Members made decisions the cost implications were clear in the reports available to Members at that time.
- Ms Ironmonger confirmed that GT were aware of the monthly project management reports but these contained estimates at a point in time. It is only at the point when the costs are confirmed that members were asked to make a decision, which is the appropriate point to consider the information available to members.
- Following a request by Councillor Reilly to meet and discuss with GT details of the project management documents that he believed was key information, GT agreed in principle however, advised that they are independent and their work cannot be influenced by others. GT agreed to discuss with the Council's Statutory Officers the request and reiterated the need to be clear about the process of this if it related to challenging a decision that GT had reached.
- GT advised that they were looking at decisions that were made and whether Members were in a position to make informed decisions and it was not within their scope to look at what alternative decisions could be made.
- It was advised that GT were aware of the minutes of meetings and concerns raised regarding the Calverley Square project and it was their conclusion that they were satisfied that Members had sufficient information to make an informed decision about terminating the project in October 2019.
- GT advised that they had access to any documents that they determined were necessary to undertake their independent external review. The decision on release of documents related to Calverley Square was one for Officers and Members to make together, that the need for which the project was initially designed to address still remained to be addressed and Members should be involved in the future discussions regarded to the civic assets and how they link with the strategic objectives.
- The Monitoring Officer advised that the Council does have a governance structure and a decision-making structure and decisions were made taking into account statutory consultation requirements and discretionary requirements. The Council is obliged to follow the legislation and guidance issued by Government. If Members were minded to review the Council's consultation process that would be possible through the Council's decision making process.
- Members agreed to note the report however some members had supported Cllr Reilly in his concerns in the discussion and requested that these be referenced in the response to the recommendations. Councillor Reilly agreed to liaise with Officers and GT with regard to his concerns.

RESOLVED:

1. That the Grant Thornton's Audit Findings Report – Appendix B, be noted.
2. That the draft Statement of Accounts and the Annual Governance Statement – Appendix A, be approved.
3. That the Chairman and the Director of Finance, Policy & Development to sign a Letter of Representation based on Appendix A and the Audit Findings Report, be authorised.
4. That the findings of the independent external Value for Money Review of Calverley Square Governance – Appendix C, be noted; and
5. Councillor Reilly agreed to liaise with Officers and Grant Thornton to further explain the concerns he raised during the discussion.

CODE OF CONDUCT AND COMPLAINTS HANDLING PROCESS REVIEW BY THE CRWP

AG9/20

Councillor Bailey registered to speak and made the following points:

- That having listened to suggestions that the Council had a general culture of bullying, Councillor Bailey was pleased with the conclusion of the Constitution Review Working Party that it was clear that there was no widespread culture of bullying.
- Issues with Councillors bullying behaviour on social media were highlighted.
- A request was made that definitions in paragraph 2.8 of the report to be modified to include the more subtle forms of online bullying and harassment for Councillors that act individually or as a group.

Councillor Pope registered to speak and made the following points:

- That although he acknowledged the powers the council has to deal with Code of Conduct complaints are weak limited by legislation, Councillor Pope was pleased the process is being reviewed and supported the recommendations.
- Paragraphs from the Local Government Ethical Standards Report, a review by the Committee on Standards of Public Life were highlighted which related to the abuse of social media by Councillors.
- Where the Council is unable to resolve a complaint, a suggestion was made that party groups got involved and the possibility that they would remove an individual from a position or in more serious cases from the party.

Councillor Pound registered to speak and made the following points:

- That having read the report Councillor Pound was pleased that two of the suggestions he made to the Constitution Review Working party were included in section 5.2.
- With reference to section 3.4 of the report, several requests were made to the Constitution Review Working party and the Audit & Governance Committee, that they:
 - Explored in more detail between the date of November 2019 and July 2020 how many different subject Members were complained about and how many different

complainants there were.

- Calculate what the cost has been to Mid Kent Legal Services in dealing with these complaints.
- Advise of the specific legislation that prohibits the naming of Members that are sanctioned in accordance with the constitution as it was currently or to be constituted.
- Explored the possibility that all complaints against 1 Member can be taken as one complaint.
- Explained how Members could be advised of the range of sanctions that can be placed on a subject Member.

Ms Narebor, Head of Legal Partnership and Monitoring Officer presented her report which provided an update of the Constitution Review Working party's work and provided an update on the work of the Local Government Association (the LGA).

Members of the Committee took account of the report and raised a number of questions and issues within their discussions. These included:

- Thanks and congratulations were given by Councillor Reilly to Tony Quigley and Ms Narebor along with the rest of the team for a robust review of such a serious issue which he said he was glad to see diminish in recent times.
- Clarification was given on recommendation 15, that is was a process already in place which reported on a quarterly basis the number of complaints dealt with and did not require further legislation.
- It was advised that it was not possible to go into specific details about complaints to avoid individuals being identified.
- It was important to note that each complaint must go through the complaint process to ascertain whether there was a breach.
- Complaints could be dealt with informally however in more severe cases they could be dealt with in public and a change of legislation was required before the Council could impose more severe sanctions.
- Group Leaders were already being approached regarding issues within their parties.

RESOLVED:

1. That the report and the CRWP's conclusions, be noted.
2. That the proposed actions set out in the report, be approved.
3. That the Committee await the model code of conduct & primary legislation and refer appropriate changes back to this Committee for comments.

UPDATE ON COMPLAINTS RECEIVED UNDER THE MEMBERS CODE OF CONDUCT

AG10/20 Councillor Pope registered to speak and made the following points:

- That he felt the report was high level and limited in the information given.
- Further information such as confirmation on whether one Councillor dominated the complaints and what proportion of the complaints came from members of the public would be welcomed

among others.

Ms Patricia Narebor, Head of Legal Partnership and Monitoring Officer presented the report which provided an update on complaints received under the Members' Code of Conduct in the period 14 November 2019 to 9 July 2020.

Members of the Committee took account of the report and raised a number of questions and issues within their discussions. These included:

- With regard to whether there was a mechanism in place to ensure that an apology is issued and then received, it was advised that the process was revised slightly so that the apology when issued was sent to the Monitoring Officer or Legal Team and then forwarded on to the complainant, or sent directly if requested by the complainant.

RESOLVED:

1. That the update on complaints received under the Members' Code of Conduct, be noted.

FORWARD PLAN DATED AS AT 10 JULY 2020

AG11/20 The Committee's work programme was presented for members' information.

RESOLVED – That the work programme be noted.

URGENT BUSINESS

AG12/20 There was no urgent business for consideration.

DATE OF NEXT MEETING

AG13/20 The next meeting of the Audit & Governance Committee was 15 September 2020.

NOTE: The meeting concluded at 1.47 pm.